

REMARKS

These remarks are responsive to the Office Action, dated October 27, 2005. Currently, Claims 1 and 3-29 are pending with Claims 1, 16, 27 and 28 being independent.

In the October 27, 2005 Office Action, the Examiner rejected claims 1, 3-4, 7-27 and 29 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,884,032 to Bateman et al. ("Bateman"). This rejection is respectfully traversed.

In the October 27, 2005 Office Action, the Examiner rejected claims 5, 6, and 28 under 35 U.S.C. 103(a) as being unpatentable over Bateman in view of U.S. Patent No. 5,163,081 to Wycherley et al. ("Wycherley"). This rejection is respectfully traversed.

35 U.S.C. 103(a)

In the October 27, 2005 Office Action, the Examiner rejected claim 1 under 35 U.S.C. 103(a) as being unpatentable over Bateman. Applicants respectfully traverse this rejection.

Claim 1 recites, *inter alia*, an apparatus for caller information retrieval that includes a graphical user interface (GUI) electrically coupled to the CSRS and configured to receive and display information from the CSRS, wherein the information received from the CSRS originates from the calling party, and wherein via a soft-key or graphical button the GUI is configured to selectively initiate another message being sent from the CSRS to the calling party.

In the October 27, 2005 Office Action, the Examiner stated that Bateman discloses all elements of claim 1 of the present application except it does not teach an element of "via a soft-key or graphical button the GUI is configured to selectively initiate another message being sent from CSRS to the calling party." (See, Office Action, Page 2, Para. 2). The Examiner further stated:

However, since customers and agents can communicate using e-mail (col. 7, lines 16-20), it would have been obvious that an agent from the ACD

may easily initiate another message and click the send button to send to the calling party. This feature is notoriously well known in the art of ACDs. (See, Office Action, Page 2, Para. 2).

According to MPEP 2144.03,

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known... It is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697...

...there must be some form of evidence in the record to support an assertion of common knowledge. *See Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that general conclusions concerning what is “basic knowledge” or “common sense” to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection)...

... as noted by the court in *Ahlert*, any facts so noticed should be of notorious character and serve only to “fill in the gaps” in an insubstantial manner which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based. *See Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697; *Ahlert*, 424 F.2d at 1092, 165 USPQ 421.

The Examiner’s assertion that “it would have been obvious that an agent from the ACD may easily initiate another message and click the send button to send to the calling party” is incorrect in the art of ACDs (for example, cited U.S. Patent No. 5,946,386 to Rogers does not describe, teach or suggest this element). Further, contrary to the requirements of MPEP, the

Examiner failed to provide proper evidentiary support for his assertion that the above claimed feature is well-known in the art. Applicants hold the Examiner to his burden and require that if the Examiner is to maintain this rejection he must provide support for this conclusory statement. In the absence of such support, the rejection of claim 1 is improper, according to MPEP 2144.03, and should be withdrawn.

Bateman does not disclose, teach or suggest a GUI that is electrically coupled to the CSRS and configured to receive and display information from the CSRS, wherein via a soft-key or graphical button the GUI is configured to selectively initiate another message being sent from the CSRS to the calling party. Instead, Bateman discloses a method of managing the integration or connection of customers using various services (WWW servers, voice-mail, interactive voice response (“IVR”), email, etc.) to an automatic call distribution (“ACD”) call center agent. (Col. 7, lines 16-20). Bateman teaches a multimedia message manager (“MMM”) that allows the agent or supervisor to scan large volumes of voice-mail messages, email messages, WWW form request, etc. and prioritize and schedule call backs from a combined hotlist. (Col. 7, lines 38-42). MMM handles notification through email servers of customers of the fact that delays are expected, and is able to provide an indication of when a return call can be expected. (Col. 7, lines 58-61). However, Bateman’s MMM does not configure a GUI to selectively initiate another message to be sent from the CSRS to a calling party. In contrast, Bateman’s MMM only indicates to the customers whether delays are expected and provides an indication of whether customer’s call will be returned.

Bateman also does not disclose, teach or suggest that the information received from the CSRS originates from the calling party. In Bateman, when an ACD agent answers the call, the customer’s URL and/or CLID are forwarded so that a customer relevant screen is appearing on

the agent's PC or terminal at the same time (Col. 8, lines 62-65). Screen pop-up software takes the telephone numbers provided by the CLID box and looks up the corresponding customer records in a database, and displays them on the screen. (Col. 9, lines 10-12). However, Bateman does not display information on the screen that originates from the calling party. In contrast, Bateman displays database records that are matched to customer's telephone numbers. Bateman's database records are stored by the system, as opposed to originating from the calling party, as recited in claim 1. Thus, Bateman does not disclose, teach or suggest all elements of claim 1, and claim 1 should be allowed.

Since Bateman does not disclose, teach or suggest all elements of claim 1, it does not render claim 1 obvious. Thus, this rejection is respectfully traversed. The Examiner is respectfully requested to reconsider and withdraw his rejection of claim 1.

Claims 16, 27 and 28 are not rendered obvious for at least the reasons stated above with respect to claim 1. Thus, the rejections of claims 16, 27, and 28 are respectfully traversed. The Examiner is requested to reconsider and withdraw his rejections of claims 16, 27, and 28.

Claims 3-15, 17-26, and 29 are dependent on claims 1, 16, and 27, respectively. Thus, claims 3-15, 17-26, and 29 are not rendered obvious for at least the reasons stated above with respect to claim 1. Thus, the rejections of claims 3-15, 17-26, and 29 are respectfully traversed. The Examiner is requested to reconsider and withdraw his rejections of claims 3-15, 17-26, and 29.

In the October 27, 2005 Office Action, the Examiner rejected claims 5, 6, and 28 under 35 U.S.C. 103(a) as being unpatentable over a combination of Bateman and Wycherley. This rejection is traversed.

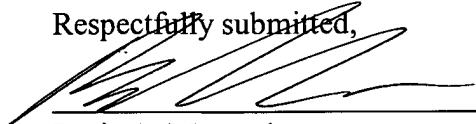
Wycherley describes an automated dual party relay telephone system that employs a text-

to-speech synthesis to decrease attendant involvement, thus, reducing cost. Wycherley also employs speech-to-text synthesis that is based on predetermined speech recognition templates. (Col. 3, lines 43-57). However, Wycherley does not solve the problems presented by Bateman. Similar to Bateman, Wycherley does not disclose, teach or suggest an apparatus for caller information retrieval that includes a GUI that is electrically coupled to the CSRS and configured to receive and display information from the CSRS, wherein the information received from the CSRS originates from the calling party, and wherein via a soft-key or graphical button the GUI is configured to selectively initiate another message being sent from the CSRS to the calling party. Thus, a combination of Bateman and Wycherley does not teach or suggest all elements of claims 5, 6, and 28, and claims 5, 6, and 28 should be allowed. As such, these rejections are respectfully traversed. The Examiner is requested to reconsider and withdraw his rejections of claims 5, 6, and 28.

No new matter has been added. The claims currently presented are proper and definite. Allowance is accordingly in order and respectfully requested. However, should the Examiner deem that further clarification of the record is in order, we invite a telephone call to the Applicants' undersigned attorney to expedite further processing of the application to allowance.

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Respectfully submitted,



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